



Guide on Receiving Complaints and the Provided Legal Assistance *

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Contents

Introduction	2
Section I - General Principles	
First: Concepts and terms	4
Second: Code of conduct	6
Section II - Competencies	
First: The complaints which the Institution has jurisdiction to consider	8
Second: The complaints that the Institution does not have jurisdiction over, or which it decides not to accept	8
Section III - Procedures for Receiving the Complaint	
First: Who has the right to file a complaint	9
Second: Means of filing (submitting) a complain	9
Third: Procedure for dealing with complaints	11
Section IV - Mechanism and Stages of Dealing with Complaints	
First: Evaluation of incoming application	13
Second: Review the complaint, provide a legal opinion, and propose recommendations	13
Third: The complaint that calls for urgent intervention	13
Section V - Complaint Follow-up	
First: Communication with the concerned body	14
Second: Procedures follow-up	14
Third: Notification of the complainant	15
Section VI - Discontinue Proceedings and Retain the Complaint	
First: Cases of suspension (discontinuance) of complaint procedures	16
Second: Retain the complaint	16
Third: The appeal against the decision taken regarding the complaint	17
Fourth: Re-open the complaint	17
Section VII - Provision of Legal Assistance and counseling	18
Section VIII - Procedures for Amending the Guide on Receiving Complaints and the Provided Legal Assistance	
First: Who has the right to amend the guide	19
Second: Procedures to amend the guide	19

Introduction:

The National Institution for Human Rights (NIHR) is one of the national mechanisms for ensuring the full protection of the rights of citizens and residents alike, as well as participating in the development of policies related to the promotion and development of human rights in the Kingdom of Bahrain.

The role of the NIHR is based on two main pillars: First, to promote human rights through the dissemination of the culture of human rights, instilling its values, raising awareness of these rights, and ensuring they are practiced freely and independently; Second, to protect human rights by receiving complaints and monitoring of the places suspected of being a site of human rights violation; drawing upon, as a legal reference for activating such protection, on NIHR Establishment Law No (26) of 2014 as amended by Decree-Law No. (20) of 2016.

Accordingly, Article (12) Paragraph (f) of the Law clarifies that, in order for the NIHR to achieve its objectives, it has the right to comment on any human rights issue and to address any human rights situation, as it deems appropriate; and stipulates that the NIHR is competent to undertake the following:

“To receive, examine and research complaints related to human rights and refer them, if necessary, to the relevant authorities with effective follow-up, or enlightening those concerned with most-follow procedures and help them to implement them, or asset in the settlement with relevant authorities.”

On that basis, the NIHR has developed its vision, mission and objectives; and hence, the Guide on Receiving Complaints and the Provided Legal Assistance constitutes the implementation of the NIHR’s Strategy and Plan of Action. The Guide is a standard and a reference for handling complaints and evaluating their issues, best ways of intervention and treatment in accordance with best practices. It is also a guiding tool that enables individuals and entities to deal effectively with the complaint mechanism to achieve the goal sought by the NIHR , that is, the protection of human rights in the Kingdom.

The follow-up of complaints is one of the mechanisms of an effective complaints system and may be the only way to end the complaint with a satisfactory outcome. This requires building bridges of cooperation based on acknowledging the efforts of the NIHR and the concerned body for safeguarding and protecting human rights, pursuant to Article (12) Paragraph (g) of the Law Establishing the NIHR, which stipulates that the NIHR is competent to undertake the following:

“To perform announced and unannounced field visits, to monitor human rights situation in Correction institutions, detention centers, labor calls gathering, health and education centres, or any other public place in which it is suspected that human rights violations are taking place.”

The Law also grants the NIHR the right to request information, as stipulated in Article (14):

- “(a) The Institution may request any information, reports or documents which it considers necessary for the attainment of its goals or the performance of its functions from the ministries and relevant bodies in the Kingdom. These ministries and bodies shall cooperate with the Institution in the pursuit of its tasks and facilitate the conduct of its competency and provide it with what it requests, and to prepare the responses and comments on the recommendations contained in the reports of the institution, in this regard in accordance with the relevant laws and regulations.**
- (b) The Institution may inform the competent authorities in case the ministries and bodies fail to cooperate and provide the Institution with the requested information, reports and documents or prevent it from examining them, so that the competent authorities take the necessary steps in accordance with the law.”**

Section I

General Principles

First: Concepts and terms

In this Guide, the following words and phrases shall have the following meanings, unless the context otherwise requires:

Law: Law No (26) of 2014 on the Establishment of the National Institution for Human Rights as amended by Decree-Law No. (20) of 2016.

Institution: The National Institution for Human Rights.

Council of Commissioners: The Council of Commissioners of the Institution.

Chairperson: Chairperson of NIHR Council of Commissioners.

Vice Chairperson: Vice Chairperson of NIHR Council of Commissioners.

Committee: Complaints, Monitoring, and Follow-up Committee at NIHR.

Chair of the Committee: Chair of the Complaints, Monitoring, and Follow-up Committee at NIHR.

General Secretariat: The Secretariat of the Institution.

Secretary General: The Secretary General of the Institution.

Department: Legal Affairs and Training Department at the Secretariat.

Director: The Director of the Legal Affairs and Training Department at the Secretariat.

Unit Head: The Head of the Complaints and Monitoring Unit at the Legal Affairs and Training Department.

Unit: The Complaints and Monitoring Unit at the Legal Affairs and Training Department.

Electronic system: The electronic system adopted by the Institution to register received complaints, record legal assistance provided, and

determine the monitoring cases carried out by the Institution throughout media and social media.

Institution's Branch: Branch of the National Institution for Human Rights at the Expatriate Workers Protection Center of the National Commission for Combating Trafficking in Persons, or any other branch.

The Recipient of a Complaint: The person in charge, or authorized, to receiving the complaint and interviewing the complainant, whether such person is an employee of the General Secretariat or a person or entity authorized by the Institution to do so.

Complaint: Any allegation of any violation of one or more of the fundamental rights and freedoms guaranteed by national legislation or international conventions and covenants committed by the State's Ministries, institutions and apparatus or its staff.

Complainant: Any natural person - individual or group - who has been subjected to a violation of any of his rights, or the rights of his first or second degree relative, his or her caretaker or guardian. The complainant may be a legal person such as the various civil society organizations. The complaint may be an individual action by a person in respect of the violation of any of his/her rights or a collective action by a number of persons concerning the violation of any of their rights.

Violation: Any infringement of a human right and fundamental freedoms guaranteed by national legislation or international human rights conventions and covenants committed by the State's ministries, institutions or apparatus or by a public official, whether through suppressing the right or preventing the actual enjoyment of practicing it.

Legal assistance and counseling: To elucidate the due process to be followed by providing legal advice and counseling to individuals, whether upon filing a complaint, which is later identified as beyond the area of the competencies of the Institution, or when individuals first request such advice.

Follow-up: A process of communication between the Institution and the concerned authorities in the Kingdom, on incidents of receiving complaints to request clarification and resolving such, whether the process of communication is in writing or by any other means.

Coordinator: A member of one of the relevant bodies who is in charge of the coordination and follow-up of all communications received from the Institution concerning receiving complaints, and informing the Institution of the actions taken on the subject of the complaints.

Relevant bodies: Constitutional institutions (legislative, executive, judicial) or other non-governmental entities.

Second: Code of conduct

Considering that the Institution works to protect human rights and fundamental freedoms of citizens and residents alike by receiving complaints, taking the necessary administrative and legal measures to address such complaints, and providing legal assistance and advice to those in need; and in view of the nature of the Institution's role and mission; the Code of Conduct aims to establish and codify a number of legal and ethical controls related to the professional conduct of those employees working in the Unit in order to ensure the proper functioning of the Unit and to provided distinguished, high quality humanitarian services under fair, expeditious, efficient, and functional standards without distinction as to gender, origin, language, religion, or belief, or for any other reason.

Therefore, employees receiving complaints must follow the following rules:

1. Be considerate and patient and not engage in matters that may give rise to controversy and confusion when dealing with the complainants, the applicants for legal assistance and counseling, and all the beneficiaries of the Institution's services related to the work of the Unit. Avoid retaining the original copies of any document, report, paper, or letter relating to the complaint; and do not make any copies. Such copies should only be used when necessary.
2. Take utmost care to perform the work accurately, honestly, and conscientiously, and be free of any considerations that may cause prejudice, while respecting transparency and integrity values, and carry out all the duties imposed by the nature of the work, in

addition to the requirements imposed by the Institution's Law, regulations, and instructions.

3. Maintain strict neutrality in dealing with the public, and avoid factiousness, and special interests and concerns when providing the services, and take into account the time factor for the rapid handling and follow-up of complaints.
4. Be fair in providing the services of the Unit to all citizens and residents, without discrimination on grounds of race, origin, language, religion or creed, political or partisan affiliation, or any other grounds.
5. Respect professional confidentiality in relation to work confidential information or the privacy of the beneficiaries of the services of the Unit, which are accessed by virtue of work, and not to disclose such information or use them informally other than as is stipulated by the Law.
6. Ensure that the information that is obtained during working, or after leaving work, is not used to attain special interests.
7. Comply with providing information on legal assistance and counseling in a detailed manner and respond to any queries from citizens, residents or any other entity.

Section II

Competencies

First: The complaints which the Institution has jurisdiction to consider

1. Individual or collective complaints involving a violation of human rights and fundamental freedoms, provided that such violation is committed by an official body or such body is connected to the violation, within the territorial boundaries of the Kingdom of Bahrain or outside it, whenever the violator is an official body of the Kingdom.
2. Complaints that the Institution decides to accept for certain considerations, such as the complaints that form a public opinion or a collective violation.

Second: The complaints that the Institution does not have jurisdiction over, or which it decides not to consider

1. If one year has passed since the violation took place, unless such violation is ongoing.
2. If the subject matter of the complaint is pending before a judicial or administrative inquiry body, is before the judiciary, or judgment has been delivered, unless it concerns the violation of the right to fair trial guarantees.
3. If the Institution has previously dismissed the complaint on the grounds of lack of evidence or because it was not made in earnest, unless something arises that warrants reconsideration.
4. The complaints involving harm in a way that offends an official body or a public figure.
5. The complaints involving disputes between individuals or private entities.
6. The complaints that are associated with the provision of humanitarian assistance by official bodies, unless the reason for not providing such assistance is due to discrimination by these bodies in granting them on grounds of sex, religion, race, colour, political affiliation, or disability.
7. Failure to exhaust all national means of recourse or the existence of a body that possesses the inherent jurisdiction over the subject matter of the complaint.

Section III

Procedures for Receiving the Complaint

First: Who has the right to file a complaint

- The Institution receives complaints from any entity that has a legitimate interest or standing in submitting it, or from one of the concerned relatives up to the second degree, or by its legal representative pursuant to a power of attorney, whether such entity is a natural or legal person, civil society organization, and other competent bodies.
- Complaints are also accepted from children below the age of 18, provided that parents or the person having custody of the child, or the guardian or the legal representative of the child is duly notified.
- In the absence of standing or interest, the complaint may be accepted and presented to the Head of the Unit and the Director of the Department, and recorded as a monitoring case.

Second: Means of filing (submitting) a complaint

When a complaint is submitted to the Institution, one of the following methods can be selected:

1. Submission of the complaint at the Headquarters of the NIHR:

The complaint may be submitted at the Institution's Headquarter in a room designated to receive complaints, by the complainant in person or by someone authorized to submit it on his/her behalf, in accordance with the established procedures. If the complainant is unable to come to the Institution's Headquarter in person for reasons such as illness, disability, or any other impairment, and if no authorized person is available to submit the complaint on the complainant's behalf, the person in charge of receiving the complaints (the Recipient of Complaints) may be accessible to the complainant.

2. Submission of the complaint at the branches of the NIHR:

Expatriate Workers may submit the complaint at the Institution's branch at the Expatriate Workers Protection Center of the National Commission for Combating Trafficking in Persons, or any other branch to be determined in the future.

3. Submission of the complaint through the NIHR's Hotline:

The complaint can be received by phone, in cases where the complainant or his/her representative cannot attend, by calling the complaints toll-free number (80001144).

4. Online submission of the complaint via NIHR's website:

Complete the required information in the e-complaint form via the NIHR's website (www.nihr.org.bh).

5. Receiving the complaint by e-mail or fax:

Complete the required information in the complaint form available on the NIHR's website in PDF format, send it by e-mail to (complaint@nihr.org.bh) or print it out and send it by fax.

6. Submission of the complaint via mobile phone application (NIHR Bahrain):

Complete the data in the application, and attach the required documents.

In all cases, the complainant, or his/her authorized representative, shall be contacted and requested, in accordance with the established procedures, to come to the Institution's Headquarters to complete the procedures and sign the documents, which officially authorize the Institution to follow up the complaint and play the role of mediator with the official bodies. If the complainant has serious reasons to prevent him/her, or his/her authorized representative, to come to the Institution in person, this condition may be waived.

Third: Procedure for dealing with complaints

1. The complainant start by presenting the issue of the complaint in detail, and the Recipient of the Complaint notes his/her observations about the complaint. The Recipient of the Complaint shall not interfere with or express his/her views regarding the expected outcome or influence the complainant in a way that may change its course, unless the complainant elaborates on matters that are irrelevant to the subject matter of the complaint.
2. The complainant is asked to fill out the complaint submission form (the application) in Arabic or English languages and is assisted in completing the requested information, while making sure that all supporting and substantiating documents of the allegation of violation are provided.
3. If the complaint submission form cannot be completed by the complainant because of lack of command of the languages, inability to write, bad handwriting, health issue, disability, or any other reason, the form will be completed by the Recipient of the Complaint, provided this is noted in the comments section on the form.
4. The complaint shall be given a reference number indicating the year in which it was submitted, for documentation and follow-up purposes.
5. The complainant undertakes to:
 - a) The complaint shall be dealt with in accordance with Law No. (26) of 2014 on the Establishment of the National Institution for Human Rights as amended by Decree-Law No. (20) of 2016 and the NIHR's main objectives and scope of its work contained therein.
 - b) All information provided is true, accurate, and correct.
 - c) The NIHR shall use such information, which may include private and confidential information, to deal with the complaint effectively.

- d) The NIHR may need to exchange information regarding the complaint with the concerned authority or authorities, or any other relevant body or organization.
 - e) Communicate with the complainant to inform him/her of the latest developments or to request additional information related to the complaint.
 - f) Examples of the complaint may be published, with due consideration to respect privacy and maintain the confidentiality of personal information.
6. Upon the complainants' request, the NIHR shall submit to him/her a statement containing his/her data and a summary of the issue of the complaint, its date and number; a copy thereof shall be attached to the original complaint.

Section IV

Mechanism and Stages of Dealing with Complaints

First: Evaluation of incoming application

After receiving the application, the Unit shall examine and ensure that all related formalities are in order and that all required documents have been attached. The Unit shall communicate with the applicant (complainant) to provide any incomplete data or documents within five business days. After receiving all the supporting and substantiating documents, the application is classified as either a complaint or a request for legal assistance, and is filed in the electronic system (recorded in the complaints log).

Second: Review the complaint, provide a legal opinion, and propose recommendations

After receiving all the substantiating documents, the complaint shall be examined by the Unit and the legal opinion on the violated right - if any - shall be prepared, supported by legal provisions from national legislation, or international human rights agreements and covenants, or resolutions, regulations and general comments of the treaty bodies, or the comments of special rapporteurs; recommendations shall be made to take a specific action and presented to the Director of the Department to be adopted. Such recommendations shall be submitted to the Chair of the Committee through the Secretary General.

Third: The complaint that calls for urgent intervention

If the issue of the complaint relates to a violation that requires prompt intervention and it is feared that harm will occur if the ordinary course of procedures is followed, and after verifying that the violation has been committed, and the Institution, in its opinion, decides it has jurisdiction over such violation, the Chair of the Committee shall be notified, briefed on the issue of the complaint and the proposed recommendation; then, the Chair of the Committee shall take such action as he/she considers appropriate. The procedures related to the complaint shall be completed later.

Section V

Complaint Follow-up

First: Communication with the concerned body

Communication with the concerned body can take place in several ways, as follows:

1. *Direct Communication:*

The Chair of the Committee may communicate with the concerned body directly by telephone, or meet with its representative and discuss the issue of the complaint and work together to resolve it, and act as mediator to resolve such complaint.

2. *Communication in writing:*

The concerned body shall be addressed in writing on the issue of the complaint in the form of a request of information, enquiry, clarification, verification, or a request to take the required procedures in this regard, with attaching the substantiating documents supporting the issue of the complaint.

3. *Conduct a visit or immediately go to the place of the violation:*

The Institution may request an urgent visit, or to immediately go to the place of the violation, as the case may be, if it is believed that the violation is committed in a correctional institution, place of detention, labor gathering, health and educational institutions, or any other public place suspected of being a site of human rights violation.

Second: Procedures follow-up

1. *Follow-up with the Coordinator:*

After addressing the concerned body, the Unit shall follow-up with the Coordinator to find out the measures taken concerning the issue of the complaint and actions taken to deal with it.

2. Receiving the response of the concerned body:

Upon receiving the response of the concerned body, the Unit shall enter the information contained in the response into the electronic system, clarify the actions taken with respect to the complaint, and propose the appropriate recommendation thereon, and submit it to the Director of the Department for appropriate action.

3. Re-address the concerned body:

- a) The concerned body shall be communicated again, in writing: if the response of the concerned body is not convincing or insufficient in order to request further investigation or clarification, or in the case where a matter arises regarding the issue of the complaint.
- b) If the concerned body does not respond to the Institution's "letter" within one month from the date of sending such first "letter".

4. No response from the concerned body despite re-addressing:

The Institution, pursuant to Paragraph (b) of Article (14) of the Law, may inform the competent authorities in case the ministries and entities fail to cooperate and provide the Institution with the requested information, data, or documents or prevent it from examining them in order to enable the Institution to fulfill its role regarding the complaint. The Institution may take a step-by-step action as follows:

- a) Meet the representative of the concerned body.
- b) Meet the representative of the competent constitutional authority to which such ministries and entities are subject to.
- c) Hold a press conference or issue a statement.
- d) Mention the lack of cooperation of the concerned body in the annual report of the Institution.

Third: Notification of the complainant

The complainant shall be informed verbally of any action taken in respect thereof, and it shall be recorded in the complaint file in the electronic system.

Section VI

Discontinue Proceedings and Retain the Complaint

First: Cases of suspension (discontinuance) of complaint procedures

The complaint procedures shall be suspended in the following cases:

1. At the request of the complainant, his/her written consent.
2. The complainant did not make the complaint in earnest (lack of seriousness) or his/her failure to provide required data and documents after five working days from the date of filing the complaint.
3. The complainant has initiated procedures related to the issue of the complaint before an administrative or judicial investigation body.
4. If the subject matter of the complaint is deemed to be illogical or malicious.

In all cases, the complainant shall be informed verbally of the action taken in respect of the complaint.

Second: Retain the complaint

The complaint shall be dismissed based on the following:

1. Achieving the outcome by the cessation of the case of violation or by the actions taken by the competent authority.
2. There is no violation of a right as it turns out by examining the subject matter of the complaint and the evidence and documents attached thereto.
3. Lack of jurisdiction, being considered before a judicial or administrative body, or, in the opinion of the Institution, the existence of a body that possesses the inherent jurisdiction over the subject matter of the complaint.
4. The complainant did not follow-up the complaint in earnest (lack of seriousness) or his/her failure to complete the required data and documents related to it.
5. Lack of evidence, and not providing proof of the violation being committed.

6. The complaint may be dismissed for the lack of cooperation of the concerned body.

In all cases, when the complaint procedure is suspended or dismissed, the Chair of the Committee shall explain and provide reasons for such action. This shall be recorded in the electronic system.

Third: The appeal against the decision taken regarding the complaint

The complainant may lodge an appeal in writing against the decision taken to dismiss (retain) the complaint, or to suspend it, or for lack of jurisdiction, within five working days from the date of notifying the complainant. The following procedures must be observed:

1. The appeal against the decision shall be submitted to the Chair of the Committee via the electronic system.
2. The appeal against the decision shall be presented to the Committee to consider and take necessary action.
3. The complainant shall be notified of the decision.

Fourth: Re-open the complaint

The complaint may be re-opened and followed up again if reasons to do so arise - such as provision of evidence, proof of seriousness of the complainant, or other grounds - in which case the justification for re-opening the complaint are determined and the procedure for examining the complaint is followed.

Section VII

Provision of Legal Assistance

The Institution shall provide legal assistance to individuals or any entity, on the filing of a complaint that turns out to be beyond the Institution's competencies, by making the complainant aware of due process, assisting him/her to take action, and providing him/her with information on the subject matter of the complaint or the request under consideration.

The complainant shall be made aware of the procedures to be taken before resorting to the Institution, and the need to first exhaust all administrative or legal remedies and grievances as the case may be, or to submit a communication to the competent security authorities, or to seek the help of another body with inherent jurisdiction in the consideration of the complaint.

In addition, the Institution has the right to provide assistance to cases that do not constitute a violation in the actual sense, but are not consistent with the Kingdom's obligations under international instruments.

In this regard, the same procedures for reviewing and dealing with complaints shall be followed, or suspend such cases and retain them, as provided in sections: IV, V and VI of this Guide

Section VIII

Procedures for Amending the Guide on Receiving Complaints and the Provided Legal Assistance

First: Who has the right to amend the Guide

The Secretary General of the Institution, the Chair of the Committee, at his request, or the request of one or more members of the Committee supported by the Chair of the Committee, as well as Members of the Council of Commissioners may request to amend this Guide after stating the reasons and justifications for such amendment.

Second: Procedures to amend the Guide

- a) Amendments shall be presented to the Council of Commissioners at its ordinary or extraordinary meetings, and a decision shall be issued by the Council to adopt the amendments.
- b) Amendments, upon adoption, shall be binding on all employees of the Institution and its clients, and shall be published on the website of the Institution.

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